

**COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION**

**FISCAL NOTE**

L.R. No.: 0494-03  
Bill No.: SCS for SB 24  
Subject: Elderly; Health Care; Health Care Professionals; Health Department; Medical Procedures and Personnel; Nurses; Physicians; Social Services Department  
Type: Original  
Date: February 24, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
General Revenue	(Unknown greater than \$1,635,148)	(Unknown greater than \$1,989,889)	(Unknown greater than \$2,068,700)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown greater than \$1,635,148)</b>	<b>(Unknown greater than \$1,989,889)</b>	<b>(Unknown greater than \$2,068,700)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Federal*			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Revenues and expenses of approximately \$2,000,000 would net to \$0.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **State Treasurer's Office**, the **Department of Mental Health**, and the **Department of Revenue** assume this proposal would not fiscally impact their agencies.

Officials from the **Office of Prosecution Services** assume cost could be absorbed with current resources.

Officials from the **State Public Defender (SPD)** assume existing staff could provide representation for those cases caused by increased reporting and because of the penalty provision of this proposal. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Secretary of State (SOS)** state that this proposal creates the safe at home act. The Department of Health and Senior Services could promulgate rules to enact this legislation. Based on experience with other divisions, the rules, regulations, and forms issued by the

Department of Health and Senior Services could require as many as 14 pages in the *Code of State ASSUMPTION* (continued)

*Regulations* and half again as many pages in the *Missouri Register* because cost statements, fiscal notes and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the Register is \$23 and the estimated cost of a page in the Code is \$27. The actual cost could be more or less than the numbers given. The impact of the legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. SOS estimates total cost for FY 04 to be \$861 [(14 pages x \$27) + (21 pages x \$23)].

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** assume this proposal would not fiscally impact their agency because Section 590.010 already defines a peace officer as “a law enforcement officer of the state or any political subdivision of the state with power to arrest for a violation of the criminal code or declared or deemed to be a peace officer by state statute.” MHP states adding the phrase “law enforcement officer” to 660.300, when it already says “peace officer,” would not appear to have any impact.

Officials from the **Department of Health and Senior Services** state that the cost of this proposal is unknown, greater than \$100,000.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state the following:

**Section 660.300.2 - In-home provider nurse assist with suspected abuse/neglect investigation**

The DMS states the Department of Health and Senior Services may authorize units for the in-home provider nurse to assist in a suspected abuse or neglect investigation. If units are authorized for the in-home provider nurse and the investigation was of a Medicaid client, the authorized units would be paid by Medicaid.

For the in-home provider nurse to be reimbursed for services performed during the investigation, the following assumptions were made: (1) The duties performed by the nurse must be part of the duties outlined in the Nurse Practice Act, (2) The Centers for Medicare and Medicaid Services

(CMS) must approve the services performed by the nurse during the investigation as medically necessary. Unless the CMS approved the services, federal matching funds would not be ASSUMPTION (continued)

available for these services, (3) The investigational nurse visits would be in addition to the services currently being funded and any increase in services would be subject to appropriation.

The DOH estimates that 1,186 investigations will be made on behalf of Medicaid clients with the assistance of the in-home service nurse. Each investigation would require 4 units of service at a cost of \$37.85/unit or an annual cost of \$179,560 (1,186 x \$37.85).

DMS states for the purposes of this fiscal note, the in-home nurse is assumed to be a registered nurse licensed pursuant to Missouri statute. It is also assumed that federal matching funds would not be available. DMS states the current CMS management does not look favorably upon the DOS's current authorized nurse visit included in the current personal care program.

#### **Section 660.300.14 - In-home provider nurse may do assessment of the client's condition**

DMS states this section creates a new evaluation (Safe at Home Evaluation ) of in-home service clients and the possibility that a provider nurse may conduct this evaluation and develop a plan of care. Currently, the DOH-Division of Senior Services (DSS) conducts the assessment of potential in-home clients. Any changes required by this language to the assessment would be performed by the DOH. A fiscal impact to the DMS is expected if the provider's nurse is authorized to perform the initial assessment and establish a plan service/care. DMS states the cost is included in Section 660.330.15. DMS assumes the evaluation visit would be included as one of the proposed two annual visits.

#### **Section 660.300.15 - Two authorized nurse visits annually**

DMS states currently a personal care client may receive nurse visits for evaluation and assessment if the DOH-DSS determines it is necessary. The individual may also receive nurse visits if they are in need of assistance with filling insulin syringes, setting up oral medications, monitoring skin conditions, diabetic nail care, or other nursing services as determined by a case manager. Currently, 21,590 adult personal care recipients do not receive a nurse visit. Individuals are re-evaluated on at least a yearly basis. The DOH provided the recipient count.

Annual Cost:  $21,590 \times \$37.85$  (current Medicaid nurse visit rate)  $\times 2 = \$1,634,363$

The cost for FY 04 would be \$1,361,969 (10 months); for FY 05 the cost is \$1,707,909, and for

FY 06 the cost is \$1,784,765. This assumes a 4.5% annual inflation rate for growth and increased rates. The federal match used for all years is 61.47%.

#### ASSUMPTION (continued)

DMS assumed that only the annual nursing visits required by this proposal are beyond the current cost limitation (nursing facility cost cap). The current limitation of 26 nurse visits in a six-month period remains as stated in regulation.

#### **Section 1 - Telephone check-in pilot project**

The DMS states currently, a Telephony pilot project exists which allows the telephone check-in system for in-home services to be used. However, the current pilot project does not allow providers to round to the nearest half hour of service for billing purposes. DMS believes that allowing providers to round to the nearest half hour of service would increase the number of hours of service submitted and increase costs to the Medicaid program.

DMS states there are currently 35 providers using Telephony. The number of Medicaid clients for these 35 providers is 6,836 (counts provided by the DOH). DMS assumes the hours/units of service would increase by 2 hours per client/month if rounding to the nearest half hour is allowed. The DMS assumes providers will round up. The projected annual costs is \$2,249,317 ( $6,836 \times 2 \times \$13.71/\text{hr} \times 12$ ). The current unit rate for basic Personal Care and homemaker Chore is \$13.71/hr.

The cost for FY 04 is \$1,874,431 (10 months); for FY 05 the cost is \$2,350,536 and \$2,456,310 for FY 06. DMS assumes a 4.5% annual inflation rate for growth and increased rates. The federal match used for all years is 61.47%

DMS states section 1.2 will require a "true-up" procedure will be followed in order to remedy any over-collections or under-collections from previous periods. The true-up procedure will require additional staff, equipment and programming for the DMS. The cost of doing this true-up procedure is unknown but greater than \$100,000. DMS states current billing procedures do not incorporate the provider supplying the actual time served to any individual client to the DMS. The DMS assumes the provider will also incur additional costs in order to provide the additional information needed to do the true-up procedure.

Officials from the **Department of Corrections (DOC)** did not respond to our fiscal note request. However, in a similar proposal, DOS stated that in FY 2002, there were no admissions to prison for failure to report elderly abuse. DOC states in FY 2002 there were 6 open probation and

parole cases related to elderly abuse. Therefore, DOC assumes fiscal impact related to this proposal would be unknown and less than \$100,000.

Section 660.300.12 states in-home service providers must pay a \$1,000 administrative penalty  
ASSUMPTION (continued)

per violation for each incident of a in-home service employee being found guilty of abuse. Such penalties would be deposited into the General Revenue Fund. **Oversight** assumes these penalties will be minimal.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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## GENERAL REVENUE

### Costs - Department of Health and Senior Services

Program costs	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)
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### Costs - Department of Social Services - Division of Medical Services

Program costs for Section 660.300.2	(\$149,633)	(\$187,640)	(\$196,084)
Program costs for Sections 660.300.14 and 660.300.15	(\$524,767)	(\$658,057)	(\$687,670)
Program costs for Section 1 (Telephony)	(\$722,218)	(\$905,662)	(\$946,416)
Program costs for Section 1.2 (true-up)	(Unknown greater than \$38,530)	(Unknown greater than \$38,530)	(Unknown greater than \$38,530)

Total <u>Costs</u> - Department of Social Services - Division of Medical Services	(Unknown greater than \$1,435,148)	(Unknown greater than \$1,789,889)	(Unknown greater than \$1,868,700)
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### Costs - Department of Corrections

Incarceration/probation costs	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
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<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(Unknown greater than \$1,635,148)</u></b>	<b><u>(Unknown greater than \$1,989,889)</u></b>	<b><u>(Unknown greater than \$2,068,700)</u></b>
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<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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**FEDERAL**

Income - Department of Social Services -  
Division of Medical Services

Federal Assistance	(Unknown greater than \$2,050,885)	(Unknown greater than \$2,556,196)	(Unknown greater than \$2,668,459)
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Costs - Department of Social Services -  
Division of Medical Services

Program costs for Sections 660.300.14 and 660.300.15	(\$837,202)	(\$1,049,852)	(\$1,097,095)
Program costs for Section 1	(\$1,152,213)	(\$1,444,874)	(\$1,509,894)
Program costs for Section 1.2	<u>(Unknown greater than \$61,470)</u>	<u>(Unknown greater than \$61,470)</u>	<u>(Unknown greater than \$61,470)</u>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

CAM:LR:OD (12/02)

This proposal modifies the investigation and reporting of elder abuse and neglect for in-home services to the elderly. The definition of "eligible adult" is broadened to include any person sixty years of age or older who is unable to protect his or her own interests or is unable to meet his or her essential human needs.

This proposal creates the "Safe at Home Act". All Medicaid participation agreements with in-

Description (continued)

home service providers shall include training on abuse and neglect.

Any nurse practitioner, physician's assistant, hospital and clinic personnel engaged in examination, care, or treatment of persons, coroner, mental health professional, funeral director, embalmer, probation or parole officer, law enforcement officer, in-home services provider, home health agency, home health agency employee, adult day care worker, or employee for a local area agency on aging reasonably believes that an in-home services client has been abused or neglected is required to report such information.

If a in-home services provider willfully and knowingly failed to report known abuse by their employee, they are subject of administrative penalties of \$1,000 per violation to be deposited to General Revenue.

Authorized nurse visits shall be made at least twice annually to assess the client and client's plan of service.

Before July 1, 2004, the Department of Health and Senior Services (DOH) shall establish a telephone check-in pilot project for in-home service employees to document time they spend in homes by clocking in and out by phone. This report will allow the DOH to remedy any over-billings and under billings.

This proposal repeals Section 660.058, RSMo, pertaining to budget allotments, service contracts, and performance measures for the area agencies on aging.

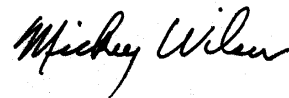
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.



SOURCES OF INFORMATION

Department of Social Services  
Department of Mental Health  
Department of Health and Senior Services  
Department of Public Safety -  
    Missouri State Highway Patrol  
Department of Revenue  
State Treasurer's Office  
Secretary of State  
State Public Defender  
Office of Prosecution Services

**NOT RESPONDING: Department of Corrections**

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

MICKEY WILSON, CPA  
DIRECTOR  
FEBRUARY 24, 2003